IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 11499 of 2005

Between:

Ch. Srinivasa Babu

..... PETITIONER

AND

The Joint Collector & Addl. District Magistrate,

Guntur, Guntur District.

.....RESPONDENT

ORDER:

Challenging the proceedings dated 26.04.2005 issued by the respondent as arbitrary and illegal, the present writ petition is filed.

It is the case of the petitioner that he applied to the Central Government for permission to commence a retail petrol outlet and also applied for No Objection Certificate from different Departments viz. Police, R&B, Fire, Explosives and Revenue, and the Central Government accorded permission on 05.11.2004 and also the concerned departments including the respondent also granted No Objection Certificate on 05.06.2004. Accordingly, the petitioner proceeded with work to open a retail petrol outlet. In the meanwhile, the respondent, on a complaint made by the villagers of Pedakurapadu, issued a show cause notice dated 12.04.2005 calling explanation from the petitioner as to why the No Objection Certificate granted earlier should not be cancelled, for which the petitioner submitted his explanation on 12.04.2005 and 19.05.2005. But, without considering his explanation, the respondent cancelled the No Objection Certificate, granted earlier in favour of petitioner, by order dated 26.04.2005.

Heard the learned counsel on either side.

The learned counsel for the petitioner contended that prior to the proposal of new outlet, No Objection Certificate was granted and the petitioner invested huge amounts in making steps to open a new outlet, but the respondent, without considering the explanation of the petitioner, cancelled the No Objection Certificate. He further contended that the proposed new outlet (gas godown) of petrol bunk ought to have been cancelled since No Objection Certificate was granted to the petitioner prior to the sanction of the said new outlet.

On the other hand, the learned counsel for the respondent contended that the No Objection Certificate was cancelled on the ground that one L.P.G.Gas godown was existing in a distance of 30 feet from the proposed outlet of the petitioner and hence, prays to dismiss the writ petition.

The proposed parties got impleaded in the main writ petition. The contention of the learned counsel for the respondent is that the No Objection Certificate issued earlier by the Joint Collector is rightly cancelled in view of the fact that the proposed outlet is located in the residential locality and also just opposite to the Social Welfare Hostel, and therefore, the impugned proceedings do not call for interference of this Court with the impugned proceedings.

As seen from the counter allegations of the Joint Collector, it is specifically stated that the No Objection Certificate issued by the respondent on 05.06.2004 after verification was made by the concerned departments with personal inspection. At the time of personal inspection made by the respondent, the gas godown was not in existence. The construction of the gas godown was came to light after the personal inspection only. In view of the fact of existence of a gas godown after No Objection Certificate was granted, the No objection Certificate granted earlier in favour of the petitioner sought to be cancelled on the ground that the gas godown is located very nearer to the proposed outlet within a distance of 30 feet.

To the show cause notice, the petitioner submitted a detailed explanation on 12.04.2005 and 19.05.2005 giving all details with regard to location of gas godown and distance from various places, but that has not been considered by the respondent and issued impugned proceedings dated 26.04.2005 cancelling the No Objection Certificate granted earlier to the petitioner. The impugned proceedings do not contain the information as to when No Objection Certificate was granted to the alleged L.P.G.Gas Godown. Therefore, the matter is required to be decided on merits with reference to the date of granting No Objection Certificate, including the report of the Department of Explosives and also duly taking consideration of the representation of the villagers who are being affected in the proposal.

In that view of the matter, the impugned proceedings dated 26.04.2005 are quashed. However, this order will not preclude the respondent to decide the matter on merits in accordance with rules, duly taking note of the report of the Department of Explosives and also the representation of the villagers who are being affected in the proposal of the outlet of the petitioner.

With the above observations, the Writ Petition is allowed. No order as to costs.

K.C. BHANU,J

Dated: 29.08.2005

Dsr